

**AN ORDINANCE
BY CITY UTILITIES COMMITTEE**

AN ORDINANCE TO AMEND SECTION 2.25 OF THE CITY OF ATLANTA ORDINANCE ENTITLED “CABLE COMMUNICATIONS ORDINANCE” (94-O-1777) SO AS TO AMEND THE DEFINITION OF “GROSS REVENUE” SUCH THAT IT IS CONSISTENT WITH STATE LAW; AND FOR OTHER PURPOSES.

WHEREAS, the current definition of “Gross Revenue” as used in the City Ordinance entitled “Cable Communications Ordinance” (94-O-1777) is not consistent with the definition provided by state law; and

WHEREAS, the current definition of Gross Revenue does no include “fee on fee” and similar items in calculating gross revenue; and

WHEREAS, the City will realize a significant increase in franchise fees by mirroring state law in its definition of Gross Revenue;

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: Section 2.25 of the City of Atlanta Ordinance entitled “Cable Communications Ordinance” (94-O-1777) is hereby amended as follows:

- (1) The previous definition of *Gross Revenue* is hereby replaced with the following new definition as used in O.C.G.A. 386-76-2(8):

GROSS REVENUES means all revenues received from subscribers for the provision of cable service or video service, including franchise fees for cable service providers and video service providers, and advertising and home shopping services revenues and shall be determined in accordance with generally accepted accounting principles. Gross revenues shall not include:

(A) Amounts billed and collected as a line item on the subscriber's bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided or measured by the charges, receipts, or payments therefore; provided, however, that for purposes of this Code section, such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services;

(B) Any revenue, such as bad debt, not actually received, even if billed;

(C) Any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide cable service or video programming;

(D) Any amounts attributable to refunds, rebates, or discounts;

(E) Any revenue from services provided over the network that are associated with or classified as noncable or nonvideo services under federal law, including, without limitation, revenues received from telecommunications services, information services other than cable service or video service, Internet access services, or directory or Internet advertising revenue, including, without limitation, yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such noncable or nonvideo service is bundled with the sale of one or more cable services or video services and sold for a single nonitemized price, the term "gross revenues" shall include only those revenues that are attributable to cable service or video service based on the provider's books and records; such revenues shall be allocated in a manner consistent with generally accepted accounting principles;

(F) Any revenue from late fees not initially booked as revenues, returned check fees, or interest;

(G) Any revenue from sales or rental of property, except such property as the subscriber shall be required to buy or rent exclusively from the cable service provider or video service provider to receive cable service or video service;

(H) Any revenue received from providing or maintaining inside wiring;

(I) Any revenue from sales for resale with respect to which the purchaser shall be required to pay a franchise fee, provided the purchaser certifies in writing that it shall resell the service and pay a franchise fee with respect thereto; or

(J) Any amounts attributable to a reimbursement of costs including, but not limited to, the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of any such conflict.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: Greg Pridgeon

Contact Number: X 6115

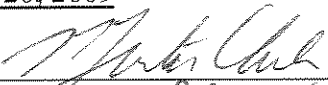
Originating Department: Department of Executive Offices


Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: July 2, 2009

Anticipated Committee Meeting Date(s): July 14 - 15, 2009

Anticipated Full Council Date: July 20, 2009

Legislative Counsel's Signature: 

Commissioner Signature: 

Chief Procurement Officer Signature: _____


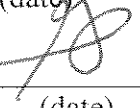
CAPTION

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FINANCIAL IMPACT (if any)

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: 7/1/09  Reviewed by: 
(date) (date)

Submitted to Council: _____
(date)